IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 283 OF 2000

Laxmi Asbestos Products Ltd.)
a company registered under the)
Companies Act, 1956 having its)
registered office at H. Somani Marg,)
Fort, Mumbai - 400 001.) .. Petitioner

Versus

1. Municipal Corporation of Greater)
Mumbai, a body corporate having)
its office at Municipal Head Office,)
Mahapalika Marg, Mumbai - 400 001.)

2. Municipal Commissioner,)
Municipal Corporation of Greater)
Mumbai, having his office at)
Municipal Head Office,)
Mahapalika Marg, Mumbai - 400 001.)

3. Ward Officer)
Municipal Corporation of Greater)
Mumbai, having his office at)
Municipal Head Office,)
Mahapalika Marg, Mumbai - 400 001.)

4. Bangur Nagar Co-operative Housing)
Societies Union, representing)
Co-op. Housing Societies in Bangur)
Nagar, Goregaon (W),)
Mumbai - 400 090.).. Respondents

Ms. Rita Bhatia for the petitioner.

Ms. P.A. Purandare for respondents Nos.1 to 3.

Ms. Rumana Bagdadi for respondent No.4.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATE : 10TH JANUARY 2005

ORAL JUDGMENT : (Per H.L. Gokhale J.)

1. The petitioner is a company registered under the Companies Act. It owns certain properties situated in Goregaon (West). Adjoining to the property of the company, a number of housing societies have come up and that area is known as "Bangur Nagar". The lands belonging to the petitioner company and those of this Bangur Nagar have certain internal roads and they are marked as "A", "B" and "C".

2. It is the case of the petitioner company that certain terms were arrived at in a writ petition then pending in this court being Writ Petition No.899 of 1982 wherein the petitioner company, one of the housing societies in that area i.e. Jalanidhi Co-operative Housing Society, and the Municipal Corporation were parties. One of the terms of these consent terms, namely Term No.7, was as follows:-

> "7. The Respondents No.2 and the Petitioners agree that after the payment of Rs.36 lakhs the internal roads Nos.A-2, A-5, A-6, A-7, A-1, C-1, and B-1, B-7, B-8, B-9 as shown coloured yellow on the plan will be declared as public streets by the Respondent No.1 under Section 306 of the Bombay Municipal Corporation Act."

It is the case of the petitioner that it contributed an amount of Rs.36,00,000/- for the development of that area.

3. The further case of the petitioner is that part of one of these roads, i.e. one road known as "Road B", belongs to the petitioner company and now the name of that road is sought to be changed as "Maharaj Agrasen Road". The petitioner and the occupants of that area learnt that the Municipal Corporation had passed such a resolution. They therefore represented to the Municipal Corporation some times in the year 2000 not to effect any such change. Finally on learning that such representation was not being acceded to, this petition was filed. The petition prays that this road marked as "B" should be continued in that name itself and the name should not be changed.

4. The Municipal Corporation is respondent No.1 and its officers are respondents Nos.2 and 3 to this petition. Bangur Nagar Co-operative Housing Societies Union is respondent No.4.

5. We have heard Ms.Bhatia for the petitioner and Ms.Purandare for respondents Nos.1 to 3. Ms.Bagdadi has appeared for respondent No.4.

6. Ms.Bhatia for the petitioner submits that as part of the road still belongs to the petitioner company, the 1st respondent - Municipal Corporation ought not to have proceeded to change the name of Road No.B. She further draws support from respondent No.4 which is an organisation representing some 36 housing societies in that particular area, which is also of the view that Road "B" should continue as it is. She submits that it is much more convenient for the people in the locality to remember the roads as A, B and C than to remember diverse names which are now being given to these roads. The petition came up for consideration before a Division Bench on 10th February 2000 when an ad-interim order was passed restraining the respondents not to proceed to name the concerned road. The petition was subsequently admitted on 13th November 2000 and the stay was continued.

7. The Municipal Corporation has filed an affidavit in reply and has mainly contended that under section 327 of the Bombay Municipal Corporation Act, it is the power of the Municipal Corporation to decide as to what name should be given to any particular road. That is the submission raised in para 11 of this reply. It is also submitted that the necessary resolution had also been

passed by the General Body of the Municipal Corporation, that the name be changed accordingly. The counsel appearing for respondent No.4 has supported the submissions of Ms.Bhatia, learned counsel for the petitioner. She has submitted that whatever may be the power of the Municipal Corporation, the wishes of the people in that area also ought to be taken into consideration before the name of the road in that particular locality is changed in any manner whatsoever.

8. We have considered the rival submissions. We quite see the force in the submission of Ms.Purandare that it is the power of the Municipal Corporation to decide as to what name should be given to any particular road. At the same time, the General Body of the Municipal Corporation as well as its officers ought to keep in mind that when any road in a particular locality is to be named, it is always desirable to take the wishes of the people in that area into consideration. This is because it is the people in that area who are ultimately going to use the name given to that road. In this view of the matter, having particularly noted that the name of the road has not been changed in view of the injunction which has been running for last about 5 years, we direct the respondents Nos.1 to 3 to take into consideration the wishes of the residents of that

particular area. Ms.Bhatia, learned counsel for the petitioner and Ms.Bagdadi, learned counsel for respondent No.4 state that they will make a fresh representation to the respondents Nos.1 and 2 within about 3 weeks from today. Those representations will be placed by the respondent No.2 before the General Body of the Municipal Corporation or whichever are the concerned committees in that behalf. We expect the authorities concerned to take into consideration the wishes of the people in that area before arriving at an appropriate decision. We make it clear that it is ultimately the power of the Municipal Corporation to decide which name should be given, but, at the same time, as stated above, we expect the authorities to keep in mind the wishes of the people in that locality as well. We further direct the respondent No.2 to communicate whatever decision is arrived at to the petitioner as well as to the respondent No.4. In the event, the decision arrived at is against the wishes of the petitioner as well as the respondent No.4, that decision will not be implemented for a period of 4 weeks thereafter.

9. Petition stands disposed of with the above order.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)